MT LEGISLATIVE HISTORY

Chapter 117 1994

Bill H 576 S _____ Original bill & hist. ___C

H. Committee on Constitution, Elections and Federal Relations

Hearing Date(s) Jan 23 ___C

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Date Out _____ ___C

S. Committee on Rules: Feb 24

Constitution, Elections and Federal Relations: Feb 06

Hearing Date(s) _____ ___C Mar 01

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Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

JANUARY 23, 1974
PROCEEDINGS OF THE
CONSTITUTION, ELECTIONS AND
FEDERAL RELATIONS COMMITTEE

The meeting was called to order by Chairman Lombardi. The secretary called the roll; all were present except for Representative Ainsworth.

HOUSE BILL 721: Representative Greely, sponsor for the bill, discussed briefly the purpose of this bill. There were several witnesses for this bill. Harold Pitts, John Cabby, Rick Applegate, Bob Burke, Mr. DaHood and Mr. K. M. Kelly. All the witnesses and committee members discussed points of the bill such as the documents which should be kept confidential. They felt there were some things that just shouldn't be brought out in public and it wasn't right for some person to be able to pry into the personal matters of others. They felt that this bill shouldn't be made legal in some sections. A motion was made to hold this bill until another hearing was scheduled. The motion was passed.

HOUSE BILL 720: Similar discussion was held on this bill too. A motion was made to make some amendments. They were in spelling errors and to clarify better the contents of the bill. A motion was made that this bill pass as amended. The committee vote was PASS AS AMENDED.

HOUSE BILL 719: This bill, being similar to the other two previous bills, was discussed in the same manner with the same witnesses. A motion was made to amend the bill in several places. The motion passed and the committee voted the bill DO PASS AS AMENDED.

HOUSE BILL 576: This bill was brought up by the sub-committee. They made amendments to this that were discussed by the committee members. The motion was made to accept the amendments into the bill. A roll call vote was taken. The bill passed with amendments with a 9 to 4 vote.

With no further business to discuss the meeting was adjourned at 12:20.

Lombardi
Jerry V. Lombardi, Chairman

Lauri Peterson
Lauri Peterson, Secretary

ROLL CALL

CONSTITUTION, ELECTIONS AND FEDERAL RELATIONS COMMITTEE

SECOND HALF - 43rd LEGISLATIVE SESSION 1974 Date Feb. 6

NAME	PRESENT	ABSENT	EXCUSED
Shea, Jim (Vice-Ch.)	X		
Graham, Carroll	X		
Mathers, William	X		
Moore, Jim	X		
Northey, Harry	X		
Rosell, A.	X		
Zody, A. A.	X		
Romney, Miles	X		
McDonald, Jack (Chairman)	X		

March 01 - no further minutes on HB 576 from this committee could be found

CONSIDERATION OF HB 657: Providing alternate methods of financing city-county boards of health in first and second class counties.

Mr. Dan Mizner stated this bill was to provide that city and counties may get together to work out a budget and apply a tax.

Mr. Dean Zinnecker, Executive Director of the Montana Association of Counties, said it is a strictly optional method, and he strongly supports the bill. The bill authorizes an additional tax, but the tax is being levied in general fund or special levy appropriations.

HOUSE BILL NO. 576:

House Bill No. 576 had further discussion. Senator Moore suggested that amendments be made to this bill. The disposition of the bill would be decided at a later date.

ADJOURNMENT:

There being no further business to discuss, Co-chairman Shea adjourned the meeting at 10:30 A.M.

McDonald

SENATOR JACK K. McDONALD, CHAIRMAN

MINUTES OF THE MEETING
CONSTITUTION, ELECTIONS AND FEDERAL RELATIONS COMMITTEE
MONTANA STATE SENATE

February 6, 1974

The eighth meeting of the Constitution, Elections and Federal Relations Committee was called to order by Chairman McDonald on the above date in Room 404 of the State Capitol at 9:30 A.M.

ROLL CALL: All members were present.

The following members testified before the committee:

William L. Romine	Montana Mining Assoc.
Steve Brown	Governor's Office
Rep. Gary Kimble	Author of HB 779
Rep. Francis Bardanouve	Author of HB 576
Rep. Mike Greely	Author of HB 719

CONSIDERATION OF HB 779: Relating to the removal of officers.

Representative Kimble, chief sponsor of HB 779, said the bill as specifically introduced dealt with the recall of non-elected officers.

Representative Kimble requested that the committee give its support for the concurrence of this bill.

Senator Shea asked if the bill was on the books. Representative Kimble replied that this section is currently on the books. Senator Shea was mainly concerned with the part of the bill that requires a two-thirds vote of all the members elect on council for authority to remove any elected or non-elected officer.

CONSIDERATION OF HB 576: Establishing a resource indemnity trust in the state which shall be forever inviolate and guaranteed by the state against loss or diversion.

Representative Bardanouve, chief sponsor of this bill, told members that the bill was introduced in the last session. The bill became law and is currently on the books. Unlike the constitutional protection barrier around the highway area, Mr. Bardanouve stated that he was not concerned with the same barrier in this matter. He feels this is a desirable piece of legislation.

Mr. Bill Romine, Montana Mining Association, testified as an opponent of the bill. (A copy of his testimony is attached to these minutes.)

Representative Mike Greely also stated his opposition of the bill. Mr. Greely agrees with the concept of the bill but disagrees with the method used which will be locked into the constitution.

Mr. Steve Brown, attorney from the Governor's Office, agreed with Mr. Greely's opinion. He felt that this legislation deserves constitutional status.

Senator Romney asked questions pertaining to the section concerned with educational trust funds. Mr. Greely stated that the intent is that these lands given to townships remain for school purposes. Mr. Greely is concerned with the educational needs and the use of our natural resources in the future but still opposes to lock an amount into the constitution.

Senator Mathers stated that the use of the money should be spelled out.

Senator Northey favors the approach of the trust fund, but he does not favor the approach being taken of having a constitutional amendment. Mr. Bardanouve discussed some of the reasons why a constitutional amendment should be taken. Mr. Bardanouve expressed his fear of future legislators and governors. He suspects that a more conservation legislature will originate.

CONSIDERATION OF HB 719: Providing guidelines for citizen participation in the operations of government agencies.

Representative Greely, chief sponsor of this bill, informed members of two other bills which will be brought before committee. These three bills pertain to the "right to know" and the "right to participate." These bills were studied during the Interim. Mr. Greely informed the committee of a pamphlet which summarizes these bills. This pamphlet was published by the Legislative Council.

Representative Greely went into a brief discussion of HB 719 stating that HB 719 was the least controversial of the three bills. Representative Greely mentioned a possible amendment to the bill. He hopes to work on more appropriate language. Mike Meloy, Legislative Council attorney, has been working with these particular bills.

Steve Brown pledged his support for the bill and said that practical questions of this bill have not been dealt with. He said the Department of Health issues 1,400 permits per year. The Department of Natural Resources also issues a great number of permits. Mr. Brown said that some issues are not of any significance to the public. His answer was to provide a possible amendment dealing only with those permits and licenses that showed significant interest to the public.

Mr. Greely proposed an amendment to the bill which would add on page 2 of the bill, line 21, after the word "decision" the following "of significant interest to the public" and by also amending on page 2, starting on line 24 after the word "rate" by striking the following "or otherwise deciding an issue of SIGNIFICANT interest to the public,".

Mr. Greely said the purpose of these bills was to give public notice and allow for participation.

Senator Northey asked the question of how the emergency zone would be affected. Mr. Greely thinks it is already abided by law. If an emergency zone is necessary, a hearing will still be necessary to hold. Mr. Greely doesn't feel it will cause any problems.

It was Senator Mather's opinion that the Legislative Council put in the appropriation. Senator Moore asked the committee to defer action on the bill.

THE FOLLOWING ACTION WAS TAKEN ON THESE BILLS:

HB 779: Senator Mathers moved to amend the blud copy bill on line 25 after the word "any" by striking the following words "ELECTED OR". Senator Northey seconded the motion, and it carried unanimously.

Senator Mathers moved for HB 779 BE CONCURRED IN AS AMENDED. The motion was seconded by Senator Northey and carried unanimously.

HB 576: Senator Romney questioned the idea of changing the scope of HB 576 to a House joint resolution. Senator Moore suggested that the Rules Committee take care of this procedure. Senator McDonald said that if the Rules Committee moves for its passage favorably, the bill will be referred back to committee and worked on. Senator Rosell moved for HB 576 to be referred to the Rules Committee. The motion was seconded by Senator Moore and carried successfully.

It was the decision of the committee the amendments proposed to HB 559 will be acted upon at a later date.

ADJOURNMENT:

Senator McDonald announced that HB 709 and HJR 44 are scheduled to be heard this Friday. There being no further business, Chairman McDonald adjourned the meeting at 10:45 A.M.

Jack McDonald

SENATOR JACK K. McDONALD, CHAIRMAN

NAME William L. Romine HOUSE BILL No. 576

ADDRESS 639 Peosta DATE

Helena, Montana

WHOM DO YOU REPRESENT? Montana Mining Association

SUPPORT? OPPOSE? X AMEND?

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

By definition, a Constitution is the fundamental principles according to which a nation or state governs itself. Legislation is the implementing of these principles.

The primary argument raised by those wishing to have a Constitutional Convention in 1972 was that our Constitution of 1889 was long, cumbersome, particular, and in many respects contained matters more properly legislative than constitutional. These people, and ultimately the people of Montana, believed that we needed a true Constitution -- a basic principle by which we could govern ourselves.

The Delegates to the 1972 Constitutional Convention abided by the public demand, and prepared an instrument containing broad principles. If we begin to amend the 1972 Constitution to include matters properly legislative in intent, we will find ourselves with another Constitution which has become long, detailed, cumbersome and particular. We will have fallen into the same trap that we were in with the 1889 Constitution. As time and needs change, we will have to go thru the long, costly and difficult procedures of again amending the Constitution, and amending the amendments.

Section 2 of Article IX of the Constitution reads as follows:

> "All lands disturbed by the taking of natural resources shall be reclaimed. The legislature shall provide effective requirements and standards for the reclamation of lands disturbed."

The resource indemnity trust act is legislation implementing that constitutional provision. If we find that we have to amend the principal amount up or down from $100,000,000, or that there is some other means of reclaiming our lands, or that the trust act must be replaced, we will find ourselves saddled with a Constitution that gives us no leeway.

When we talk about Constitutional principles, we cannot look only into next week or next year. We must, instead, look a long way into the future.

RULES COMMITTEE

MINUTES

The Rules Committee was called to order by Senator Lynch at 10:00 a.m., on February 26, 1974, in Room 331 of the Capitol. Members of the Rules Committee present were: Senators Lynch, McDonald, Flynn, Mathers, Moore and Turnage. Senator Graham was absent and excused. Also present at the meeting were: Speaker Gerke, Rep. Fasbender, Senator McOmber, Senator Deschamps, Senator Keenan, Senator Northey, John Hanson, Secretary of the Senate, Mrs. Rose Weber and Mike Meloy from Legislative Council and one other member from the Council, plus Rep. Greely.

HB 576 - Introduced by Bardanouve - "AMENDING THE CONSTITUTION, ESTABLISHING A RESOURCE INDEMNITY TRUST IN THE STATE." Senator Lynch called on Representative Fasbender to explain this bill. Rep. Fasbender stated that the bill was introduced last session and there were no problems with it then. It is a holdover bill. Senator Moore felt the bill should be in resolution form to abide with the rules. However, the rules have been changed this session and the bill is in order according to the new rules. It was felt that there might be a problem, but not a fatal difficulty and that even if the bill was not considered in proper form last session, this time it is because of the rules.

Senator McDonald then moved that House Bill 576 is proper and may be further considered by the Senate. Seconded by Senator Flynn. Senator Moore voting "no". Motion carried. House Bill 576 was re-referred to Constitution, Elections and Federal Relations Committee.

HB 694 - Introduced by Gerke - "RENUMBERING AND ADDING NEW SECTIONS TO INCORPORATE PROVISIONS OF THE MODEL POST-AUDITING ACT." Senator Turnage stated that Section 4 of the bill appears to be new matter. He presented copies of the bills as Exhibits as follows: Exhibit "1", a copy of the introduced bill. Exhibit "2", a yellow, second reading copy of the bill. Exhibit "3", a blue, third reading copy of the bill. Exhibit "4", a copy of an unmarked bill, understanding it to be a copy of the original draft of the bill prepared in the office of Legislative Post Auditor. Questions were put to Mrs. Rose Weber of the Legislative Council as follows:

Senator Lynch:

Rule 6-2 requires that in a section amending an existing statute, the new material should be underlined. This material is not underlined in HB 694, section 2, nor does that section indicate that it is a new section. That alone is to be considered important.

Senator Turnage:

The original introduced copy of HB 694, the second reading

Section 2. There is a new section to be numbered 89-8-104, R.C.M. 1947, which reads as follows:

89-8-104. **Definitions.** Unless the context clearly requires otherwise, in this act:

(1) "Department" means the department of natural resources and conservation.

(2) "Basin" means the Yellowstone River Basin.

(3) "Application" means an application for a permit under the Montana Water Use Act to appropriate surface water from any source of supply within the basin for either or both of the following purposes:

(a) a reservoir with a total planned capacity of fourteen thousand (14,000) acre feet or more, or

(b) for a flow rate greater than twenty (20) cubic feet of water per second.

The term also includes an application for approval under section 89-892, R.C.M. 1947, to change the purpose of use.

(4) "Reservation" means a reservation of water provided for by section 89-890 of the Montana Water Use Act.

Section 3. There is a new section to be numbered 89-8-105, R.C.M. 1947, which reads as follows:

89-8-105. **Suspension of action.** (1) The department may not grant or otherwise take any action on an application until either of the following first occurs:

(a) three (3) years have elapsed from the effective date of this act, or

(b) a final determination of existing rights has been made in the source of supply in accordance with the Montana Water Use Act.

(2) A reservation established before such application for permit is granted is a preferred use over the right to appropriate water pursuant to the permit, and the permit, if granted, shall be issued subject to that preferred use.

Section 4. There is a new section to be numbered 89-8-106, R.C.M. 1947, which reads as follows:

89-8-106. **When department may suspend action.** The department may suspend action on applications not meeting the definition of application in section 2 [89-8-104] of this act if it determines, after a public hearing conducted under the contested case procedures of the Montana Administrative Procedure Act, that the cumulative impact of those applications, if granted, would be contrary to the policies and purposes of this act. If the department suspends action on such applications, the provisions of section 3 [89-8-105] of this act apply.

Section 5. There is a new section to be numbered 89-8-107, R.C.M. 1947, which reads as follows:

89-8-107. **Reservations.** The department may apply for reservations and shall, as rapidly as possible, assist other appropriate state agencies and political subdivisions in applying for reservations within the basin. The United States or any agency thereof may not apply for a reservation of water in the basin under section 89-890, R.C.M. 1947, until the requirements of section 3 [89-8-105] of this act are met. Particular emphasis shall be given to applications to reserve water for agricultural, municipal, and minimum flow purposes for the protection of existing rights and aquatic life.

Section 6. There is a new section to be numbered 89-8-108, R.C.M. 1947, which reads as follows:

89-8-108. **Application of act.** This act applies to applications currently pending with the department, as well as applications filed with the department after the effective date of this act.

Section 7. There is a new section to be numbered 89-8-109, R.C.M. 1947, which reads as follows:

89-8-109. **Utility facilities.** This act does not apply to applications to appropriate water for use by a utility facility for which a certificate of environmental compatibility and public need is granted pursuant to the Montana Utility Siting Act of 1973.

Section 8. There is a new section to be numbered 89-8-110, R.C.M. 1947, which reeds as follows:

89-8-110. **Certain changes of use allowed.** Notwithstanding any provision of this act, the department may approve a change of purpose of use to agricultural, irrigation, domestic and municipal uses if it determines that the change is not contrary to the policies and purposes of this act.

Section 9. There is a new section to be numbered 89-8-111, R.C.M. 1947, which reads as follows:

89-8-111. **Severability.** If a part of this is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 10. **Effective date.** This act is effective on its passage and approval.

Approved March 11, 1974

CHAPTER NO. 117

AN ACT TO SUBMIT TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE IX, SECTION 2, OF THE CONSTITUTION OF MONTANA ESTABLISHING A RESOURCE INDEMNITY TRUST IN THE STATE WHICH SHALL BE FOREVER INVIOLATE AND GUARANTEED BY THE STATE AGAINST LOSS OR DIVERSION.

Be it enacted by the Legislature of the State of Montana:

Section 1. Article IX, section 2, of the constitution of the state of Montana is amended to read as follows:

"Section 2. Reclamation. *(1)* All lands disturbed by the taking of natural resources shall be reclaimed. The legislature shall provide effective requirements and standards for the reclamation of lands disturbed.

(2) The legislature shall provide for a fund, to be known as the resource indemnity trust of the state of Montana, to be funded by such taxes on the extraction of natural resources as the legislature may from time to time impose for that purpose.

(3) The principal of the resource indemnity trust shall forever remain inviolate in an amount of one hundred million dollars ($100,000,000), guaranteed by the state against loss or diversion."

Section 3. When this amendment is submitted to the electors of the state of Montana there shall be printed on the ballot the full title and section 1 of this act and the following words:

"☐ For the above amendment.

☐ Against the above amendment."

Approved March 11, 1974

CHAPTER NO. 118

AN ACT AUTHORIZING A COLLECTION SERVICE IN THE MONTANA DEPARTMENT OF REVENUE FOR THE PURPOSE OF CENTRALIZING THE COLLECTION OF ALL DEBTS OWING TO THE STATE OF MONTANA.

Be it enacted by the Legislature of the State of Montana:

Section 1. There is a new section to be numbered 84-7101, R.C.M. 1947, which reads as follows:

84-7101. **Department of revenue authorized to establish debt collections service.** The department of revenue is hereby authorized to provide a collection service for the general purpose of centralizing the collection of all debts owing to the state of Montana.

Section 2. There is a new section to be numbered 84-7102, R.C.M. 1947, which reads as follows:

84-7102. **Definitions.** In this act:

(1) The term "state agency" includes all state offices, departments, divisions, boards, commissions, councils, committees, institutions, university units, and other entities or instrumentalities of state government.

(2) The word "department" means the state department of revenue.

Section 3. There is a new section to be numbered 84-7103, R.C.M. 1947, which reads as follows:

84-7103. **Department may assist in debt collection.** The department may assist in the collection of any delinquent account owing to any state agency.

Section 4. There is a new section to be numbered 84-7104, R.C.M. 1947, which reads as follows:

84-7104. **Circumstances where department must assist.** Subject to, and in accordance with, rules and regulations adopted by the department, the department shall render assistance in the collection of accounts owing to any state agency if all of the following procedures have been completed to the satisfaction of the department:

(1) A state agency must make all reasonable efforts to collect money owed to it and must determine that the money and any interest or penalties therefor are uncollectible, in accordance with criteria for uncollectibility formulated by that agency.

(2) Once a state agency has determined an account owed to it uncollectible, it shall certify to the department the amount of the money, interest and penalties, as accurately as can be determined. The department may require submission by the agency of all relevant evidence and other information regarding the debt and may examine the records of any other state agency which may be pertinent in determining the uncollectibility of the debt, unless examination is specifically prohibited by law.

(3) If the department finds that the debt is uncollectible, in accordance with the criteria for uncollectibility of money due that state agency, the department shall direct the agency to write off the debt on its accounts and assign the debt to the department.

Section 5. There is a new section to be numbered 84-7105, R.C.M. 1947, which reads as follows:

84-7105. **Authority of department to collect debt.** Once a debt of a state agency has been assigned to the department of revenue, the department shall have the authority to collect it, including the power to offset tax refunds due to individuals against the debt assigned by the state agency to the department of revenue, provided the department may not exercise this right of offset until the debtor has first been notified by the department and given an opportunity for a hearing.

Section 6. There is a new section to be numbered 84-7106, R.C.M. 1947, which reads as follows:

84-7106. **Agency owed debt to receive all moneys collected.** All moneys collected by the department of revenue on debts assigned to it by the various state agencies shall be deposited to the account or fund of the agency to which the debt was originally owing.

Section 7. There is a new section to be numbered 84-7107, R.C.M. 1947, which reads as follows:

84-7107. **Write-off procedures.** The department may establish proce-